

REMARKS

Claims 3 and 12 have been rejected under 35 USC 103(a) as being unpatentable over Gallucci et al in view of Sakaki et al. Claims 16-19 have been rejected under 35 USC 103(a) over Sakaki et al in view of Gallucci et al. Once again, Applicants wish to point out that Claims 1 and 4-7 also are pending but have not been discussed in the last two Office Actions.

The two references of record cited against the present application, Gallucci et al and Sakaki et al, respectively have U.S. filing dates of August 27, 1999 and August 18, 2000. In order to remove these patents as a reference against the present application, Applicants are enclosing a Declaration Under 37 CFR 1.131 which establishes completion of the present invention at a date prior to August 27, 1999 and August 18, 2000, the earliest effective U.S. filing dates of the two patents cited by the Examiner. The Examiner is correct that Applicants cannot claim the benefit under 35 USC 119 of JP 11-95712. However, Applicants can use JP 11-95712 to show that the presently claimed invention was reduced to practice by the Applicants in Japan prior to the effective filing date of the prior art cited by the Examiner. Enclosed herewith for the Examiner's benefit is a copy of MPEP § 715.07(c) which shows that on or after January 1, 1996, Applicants can use acts carried out in a WTO member country as the basis of a 37 CFR 1.131 Declaration.

The enclosed Declaration Under 37 CFR 1.131 is signed by three of the named inventors in the present application. Kazuo HARUTA died on April 16, 2004 and, therefore, was unable to sign the enclosed Declaration. Enclosed herewith is an Excuse for Failure to Obtain Joint Inventor's Signature, an attached Family Register and English-Language Translation thereof, which evidences the death of Kazuo HARUTA on April 16, 2004. As stated in MPEP § 715.04, a Declaration Under 37 CFR 1.131 can be executed by the remaining joint

inventors, when a joint inventor is deceased. Enclosed herewith is a copy of this section for the Examiner's benefit.

In light of the enclosed Declaration Under 37 CFR 1.131, it is respectfully submitted that Sakaki et al and Gallucci et al are not available as prior art against the present application. Therefore, it is respectfully submitted that the present application is in condition for allowance. If the Examiner feels that there are any outstanding matters left to be resolved in the present application, she is respectfully requested to contact the undersigned in order that they may be dealt with.

Respectfully submitted,



Terryence F. Chapman

TFC/smd

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Encl: Declaration Under 37 CFR 1.131
JP 11-95712, and Verified English Translation thereof
MPEP § 715.04
MPEP § 715.07(c)
Excuse for Failure to Obtain Joint Inventor's
Signature
HARUTA Family Register and Certified Partial English-
Language Translation thereof
Postal Card

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